THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 3656 of 1998

DATE: 06-03-2007

Between :

P.Yadamma

… Petitioner

And

The Commissioner,
Nalgonda Municipality,
Nalgonda and 2 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 3656 of 1998

ORDER:

The petitioner herein claims to be the owner and possessor of a house plot admeasuring 847 square yards situated in Sy.No.1255 Arjala Bavi, H/o Pangal Revenue village at Nalgonda Town. While the petitioner was making constructions on the said land, the Nalgonda Municipality, raised objections and aggrieved by the same, the petitioner filed W.P.No.8371 of 1990. Though the said writ petition was dismissed, Writ Appeal No.919 of 1991 filed by the petitioner was allowed by a Division Bench of this Court by judgment dated 25-06-1997. The operative portion of the said order may be extracted here under:

> "But no such lay-out plan is filed before us. In the circumstances, we have to conclude that the land of 847 sq.yds. which belonged to the petitioner continues to be the land of the petitioner and that the petitioner is entitled to make constructions over it. But the constructions already made cannot be proceeded with unless the appellant makes an application to the second respondent Municipality. The appellant is given time of three months from today to file necessary application along with plans seeking permission for constructions along with the necessary permit fees and other charges legally leviable and if this is complied with then the second respondent Municipality shall consider the grant of permission for making constructions over the above extent of land of 847 sq.yds. situated in Sy.No.1255 of Pangal Revenue village in accordance with the Building regulations but

without treating the above land as park.

The Writ Appeal is allowed in part to the extent indicated above. No costs."

Pursuant thereto, the petitioner made an application to the first respondent herein enclosing a demand draft for Rs.10,000/- seeking permission to construct compound wall and building. The said application was rejected by order dated 25-10-1997 informing the petitioner that the land in question is subject matter of a case pending in this Court. Apart from that, the respondents started interfering with the possession of the petitioner without taking any proceedings under law. Hence, this writ petition seeking a declaration that the action of the respondents is arbitrary and illegal.

Though this Court ordered Rule Nisi on 11-02-1998, no counter affidavit has been filed by any of the respondents. The order of status quo granted by this Court on 11-02-1998 continued to be in operation through out.

Learned counsel appearing for the petitioner submitted that the order in Writ Appeal No.919 of 1991 has become final and the respondent had not moved any application either in the said Writ Appeal nor any other case is pending in this Court relating to the said land. Nothing has been placed before this Court by the respondents to substantiate the stand taken in the impugned order that the land in question is subject matter of any case pending before this Court.

In the circumstances, the respondents are not justified in not considering the application of the petitioner in terms of the directions of the Division Bench of this Court in Writ Appeal No. 919 of 1991.

Accordingly, the impugned proceedings date 25-10-1997 are hereby set aside and the writ petition is disposed of with a direction to the first respondent to consider the application of the petitioner dated 13-08-1997 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is granted liberty to resubmit the demand draft towards the required charges for building permission within a period of two

weeks from the date of receipt of a copy of this order. Till appropriate orders are passed by the first respondent, the status quo as ordered by this Court on 11-02-1998 shall continue. No costs.

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G. ROHINI, J

Dt. 06-03-2007
KLP